

REMARKS

This is a full and timely response to the non-final Office Action mailed June 1, 2005.

Reconsideration and allowance of the application and all presently pending claims are respectfully requested.

Upon entry of this Response, claims 1-22 are pending in this application. The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims. Applicants believe that no new matter has been added and that a new search is not necessary.

Double Patenting Rejection

Claims 1-22 have been provisionally rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1-31 of copending U.S. Patent Application No. 10/699,330, in view of knowledge allegedly possessed by one skilled in the art.

Although the Applicants traverse the rational presented in the Office Action for the rejection, a Terminal Disclaimer is filed herewith in compliance with 37 C.F.R. §1.321(c) to overcome the provisional double patenting rejection. Accordingly, the Applicants respectfully request that the double patenting rejection to pending claims 1-22 be withdrawn.

In filing the Terminal Disclaimers, the Applicants rely upon the rulings of the Federal Circuit that the filing of such a Terminal Disclaimer does not act as an admission, acquiescence, or estoppel on the merits of the obviousness issue. “In legal principal, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection.” *Quad Environmental*

Tech v. Union Sanitary, 946 F.2d 870, 874 (Fed. Cir. 1991); and *Ortho Pharmaceutical Corp. v. Smith*, 959 F.2d 936, 941-942 (Fed. Cir. 1992).

CONCLUSION

Applicants respectfully request that this application and all presently pending claims be allowed to issue. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,



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